

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHI MO WU,

Plaintiff,

v.

OCWEN HOME LOAN LLC, et al.,

Defendants.

2:12-CV-102 JCM (CWH)

ORDER

Presently before the court is defendants', Mortgage Electronic Registration Systems and Ocwen Home Loan LLC, motion to expunge lis pendens. (Doc. # 8). No response has been filed even though deadline date has passed.

Plaintiff filed a lis pendens against the subject property in this lawsuit. However, plaintiff failed to serve any defendants with its complaint. The clerk's office warned plaintiff of its notice of intent to dismiss the action for failure to comply with Federal Rule of Civil Procedure 4(m). (Doc. # 6). This court then dismissed the action without prejudice. (Doc. # 7). Defendants now move to expunge the lis pendens. (Doc. # 8). Plaintiff has not filed a response in opposition.

Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution

1 of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants;
2 (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less
3 drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*,
4 779 F.2d 1421, 1423 (9th Cir. 1986)).

5 The action against defendants being dismissed, the lis pendens is no longer necessary. In
6 light of these facts and the plaintiff's failure to respond, the court finds it is appropriate to expunge
7 the lis pendens. *See* LR 7-2(d); *see also* NRS 14.015(2) & (3).

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants' motion to
10 expunge lis pendens (doc. # 8) be, and the same hereby, is GRANTED.

11 DATED March 15, 2013.

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14 UNITED STATES DISTRICT JUDGE